

**THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:

ERIKA A. DIAZ

Debtor

:
:
:

BK. No. 19-16104 MDC

Chapter No. 13

**WILMINGTON TRUST NATIONAL
ASSOCIATION, AS SUCCESSOR TRUSTEE
TO CITIBANK, N.A., AS TRUSTEE FOR BNC
MORTGAGE LOAN TRUST SERIES 2007-3,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-3**

11 U.S.C. §362

Movant

v.

ERIKA A. DIAZ

Respondent

**MOTION OF WILMINGTON TRUST NATIONAL ASSOCIATION, AS SUCCESSOR
TRUSTEE TO CITIBANK, N.A., AS TRUSTEE FOR BNC MORTGAGE LOAN TRUST
SERIES 2007-3, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-3 FOR
RELIEF FROM AUTOMATIC STAY UNDER §362 PURSUANT TO BANKRUPTCY
PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtor ERIKA A. DIAZ.

1. Movant is **WILMINGTON TRUST NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO CITIBANK, N.A., AS TRUSTEE FOR BNC MORTGAGE LOAN TRUST SERIES 2007-3, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-3.**

2. Debtor, ERIKA A. DIAZ is the owner of the premises located at **5123 WESTFORD RD, PHILADELPHIA, PA 19120**, hereinafter known as the mortgaged premises.

3. Movant is the holder of a mortgage on the mortgaged premises.

4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.

5. Movant wishes to institute foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.

6. The foreclosure proceedings to be instituted were stayed by the filing of the

7. As of March 30, 2020, Debtor has failed to tender post-petition mortgage payments for the months of December 2019 through March 2020. The monthly payment amount for the months of December 2019 through March 2020 is \$483.22, less funds in suspense in the amount of \$333.56 for a total amount due of \$1,599.32. The next payment is due on or before April 1, 2020 in the amount of \$483.22. The notice of post-petition fees has already been filed for the following fees and costs that have been incurred since bankruptcy filing: BK ATTY FEE in the amount of \$250.00, PROOF CLAIM – BK in the amount \$500.00, and BK ATTY Fee \$150.00. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant, **WILMINGTON TRUST NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO CITIBANK, N.A., AS TRUSTEE FOR BNC MORTGAGE LOAN TRUST SERIES 2007-3, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-3**, requests the Court award reimbursement in the amount of \$1,231.00 for the legal fees and costs associated with this Motion.

9. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

10. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

11. PHH MORTGAGE CORPORATION services the underlying mortgage loan and note for the property referenced in this Motion for Relief for WILMINGTON TRUST NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO CITIBANK, N.A., AS TRUSTEE FOR BNC MORTGAGE LOAN TRUST SERIES 2007-3, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-3 (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/ or set aside by Order of this Court or if this case is dismissed or if the

debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of WILMINGTON TRUST NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO CITIBANK, N.A., AS TRUSTEE FOR BNC MORTGAGE LOAN TRUST SERIES 2007-3, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-3 (the noteholder). WILMINGTON TRUST NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO CITIBANK, N.A., AS TRUSTEE FOR BNC MORTGAGE LOAN TRUST SERIES 2007-3, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-3 (the noteholder) has the right to foreclose because Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. modifying the Automatic Stay under Section 362 with respect to **5123 WESTFORD RD, PHILADELPHIA, PA 19120** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and

c. Granting any other relief that this Court deems equitable and just.

/s/ Jerome Blank, Esquire
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